

May 24, 2023

**WHEREAS**, on May 9, 2018, the City Council authorized the adoption of the Comprehensive Housing Policy (CHP) by Resolution No. 18-0704; and

**WHEREAS**, after the adoption of the CHP, the City Council authorized multiple amendments to the CHP by on November 28, 2018 by Resolution No. 18-1680; on May 22, 2019 by Resolution No. 19-0824; on March 27, 2019 by Resolution No. 19-0429 and Ordinance No. 31142; on June 12, 2019 by Resolution No. 19-0884; on June 26, 2019 by Resolution No. 19-1041; on September 25, 2019 by Resolution No. 19-1498; on December 11, 2019 by Resolution No. 19-1864; on September 9, 2021 by Resolution No. 21-1450; on January 22, 2020 by Resolution No. 20-0188; on August 26, 2020 by Resolution No. 20-1220; on January 27, 2021 by Resolution No. 21-0212; on September 9, 2021 by Resolution No. 21-1450; on October 13, 2021 by Resolution No. 21-1655; on October 13, 2021 by Resolution No. 21-1656; on May 11, 2022 by Resolution No. 22-0744; on September 28, 2022 by Resolution No. 22-1432; and

**WHEREAS**, on August 9, 2017, following a public hearing, the City Council approved the final adoption of the FY2017-18 HUD Consolidated Plan Budget for the U.S. Department of Housing and Urban Development (HUD) Grant Funds which included HOME Investment Partnerships (HOME) Housing Development Loan Program Funds by Resolution No. 17-1171; and

**WHEREAS**, on August 7, 2020, the City issued a Notice of Funding Availability, as amended, in accordance with the CHP; and

**WHEREAS**, on April 12, 2023, the City Council adopted the Dallas Housing Policy 2033 to replace the CHP by Resolution No. 23-0443, and the Dallas Housing Resource Catalog to include the approved programs from the CHP by Resolution No. 23-0444; and

**WHEREAS**, in late April 2022, the U.S. Department of Housing and Urban Development (HUD) announced that approximately \$24.4 million Community Development Block Grant Disaster Recovery funding has been allocated to the City of Dallas under the second tranche of funds released from the Disaster Relief and Supplemental Appropriations Act of 2022; and

**WHEREAS**, funding was allocated to the City as a result of winter storm that occurred in Dallas, TX in February 2021 (FEMA Disaster No. 4586); and

**WHEREAS**, June 22, 2022, the City Council authorized final adoption of the FY 2022-23 Consolidated Plan Budget for U.S. Department of Housing and Urban Development Grant Funds which included HOME Investment Partnerships (HOME) Housing Development Loan Program Funds by Resolution No. 22-1024; and

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**WHEREAS**, on September 13, 2022, the Dallas Housing Finance Corporation Board of Directors adopted a resolution authorizing a preliminary inducement declaring its intent to issue bond for the Property and authorized the filing of an application for allocation of private activity bonds with the Texas Bond Review Board; and

**WHEREAS**, on November 4, 2022 TX Ferguson 2022, Ltd. (Applicant) submitted an application for gap financing and received a fundable Notice of Funding Availability score 105 out of 143 points; and passed a third-party underwriting review for their proposed development, Estates at Ferguson; and

**WHEREAS**, on November 9, 2022, following a public hearing, the City Council approved a Resolution of No Objection for ~~TX Ferguson 2022, Ltd.~~ Applicant, for 4% Non-Competitive Low Income Housing Tax Credits for Estates at Ferguson by Resolution No. 22-1717; and

**WHEREAS**, on December 14, 2022, following a public hearing, the City Council approved the final adoption of the 2022 Community Development Block Grant Disaster Recovery (CDBG-DR) Budget and draft Action Plan to accept CDBG-DR Funds from the U.S. Department of Housing and Urban Development which included New Construction – Multi-Unit funds by Resolution No. 22-1836; and

**WHEREAS**, the Community Development Block Grant Disaster Recovery (CDBG-DR) Funds must be spent for necessary activities related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the “most impacted and distressed (MID)” areas of qualifying disasters and includes all of Dallas; and

**WHEREAS**, new construction of affordable housing is an eligible activity under HUD’s CDBG-DR policy as it clearly addresses a direct or indirect impact of the February 2021 winter and ice storm that resulted in damaged or destroyed available affordable housing stock in Dallas, TX; and

~~**WHEREAS**, on November 4, 2022 TX Ferguson 2022, Ltd. (Applicant) submitted an application for gap financing and received a fundable Notice of Funding Availability score 105 out of 143 points; and passed a third-party underwriting review for their proposed development, Estates at Ferguson; and~~

**WHEREAS**, Applicant or its affiliate has submitted an application to TDHCA for 2023 4% Non-Competitive Housing Tax Credit for the proposed acquisition of the land and the construction of new improvements for the development of the Project; and

**WHEREAS**, the Applicant or its affiliates has proposed the acquisition and development of a 164-unit mixed-income affordable multifamily senior complex known as Estates at Ferguson located at 9220 Ferguson Road in the City of Dallas, Texas 75228 including 99 1-bedroom units and 65 2-bedroom units; and

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**WHEREAS**, the Developer will provide required security measures to include security cameras, fencing, and alarm systems for the Project in accordance with Notice of Funding Availability criteria and the Office of Equity and Inclusion Fair Housing Division recommendations to ensure a safe living environment for all residents and staff; and

**WHEREAS**, as a requirement of the Applicant's Application to TDHCA for [housing tax credits HTC](#) and the CHP, 16 of the 164 units will be made available to households earning 0.00%-50.00% of Area Median Income (AMI) and 148 of 164 units will be made available to households earning at or below 51.00%-60.00% of AMI meeting CDBG-[DR](#) requirements for 51 percent of total units reserved for household earning at or below 80.00% AMI. Of the 164 affordable units, the Applicant must provide 26 HOME-assisted units consisting of 20 High HOME and ~~six~~ [6](#) Low HOME units as required by the HOME funding. All HOME-assisted and CDBG-[DR](#) assisted units will remain affordable for a minimum of 20 years. There will be no market rate units; and

**WHEREAS**, to assist in the affordable housing production goals established in the CHP, as restated in the Dallas Housing Resource Catalog, acting in furtherance of the City's governmental function, the City [finds and determines that the following transaction should be ~~desired to~~ entered](#) into **(1)** a development loan agreement and security documents with TX Ferguson 2022, Ltd., or affiliate(s) thereof (Applicant) in an amount not to exceed \$4,618,487.00 in HOME Investment Partnerships Program Funds, conditioned upon Developer receiving 2023 4% Housing Tax Credit award for the development of mixed-income affordable multifamily senior living community known as Estates at Ferguson, located at 92220 Ferguson Road, Dallas, Texas 75228 (Property); **(2)** a development loan agreement and security documents with the City of Dallas Housing Finance Corporation (DHFC), or affiliate(s) thereof in an amount not to exceed \$3,965,000.00 in Community Development Block Grant Disaster Recovery (CDBG-DR) Funds to purchase and own the Property; and **(3)** the DHFC to enter into a long-term ground lease with Applicant and/or its affiliate(s), for the development of the Property pursuant to 24 CFR 570.201(a) and (b), in an amount not to exceed \$8,583,487.00, [subject to compliance with all funding source requirements](#); and

**WHEREAS**, the DHFC or its affiliate will enter into a long-term ground lease with the Applicant or its affiliate(s); and

**WHEREAS**, the Dallas City Council finds and determines that the transaction with the DHFC [and Applicant](#) should be undertaken, approves the DHFC or an affiliate thereof to purchase and own the land using CDBG-DR Funds, and enter into a long-term ground lease with ~~Developer~~ [Applicant](#) for the development of the Project [and using HOME Investment Partnerships Program Funds](#).

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**Now, Therefore,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:**

**SECTION 1.** That the City Manager is hereby authorized to execute **(1)** a development loan agreement and security documents with TX Ferguson 2022, Ltd., or affiliate(s) thereof (Applicant) in an amount not to exceed \$4,618,487.00 in HOME Investment Partnerships Program Funds, conditioned upon Applicant, or the entity named by the award, Developer receiving 2023 4% Housing Tax Credit award for the development of a mixed-income affordable multifamily senior living community known as Estates at Ferguson, located at 92220 Ferguson Road, Dallas, Texas 75228 (Property); **(2)** a development loan agreement and security documents with the City of Dallas Housing Finance Corporation (DHFC), or affiliate(s) thereof in an amount not to exceed \$3,965,000.00 in Community Development Block Grant Disaster Recovery (CDBG-DR) Funds to purchase and own the Property; and **(3)** the DHFC to enter into a long-term ground lease with Applicant and/or its affiliate(s), for the development of the Property pursuant to 24 CFR 570.201(a) and (b), in an amount not to exceed \$8,583,487.00, subject to compliance with all funding source requirements.

**SECTION 2.** That the City Manager is hereby authorized to execute a development loan agreement with Applicant and/or its affiliate(s) and ~~a developer loan agreement~~ with the DHFC, whether in the form of one agreement with each party or a single agreement including any financing and associate documents related to the loan agreement, subordinations to financial institution lien(s), and release of liens and termination of deed restrictions on the property upon satisfaction of all applicable conditions, approved as to form by the City Attorney and subject to compliance with associated funding source requirements. The Director of Housing and Neighborhood Revitalization (Director) may extend deadlines by up to two years.

**SECTION 3.** That as a requirement for the loan, the Applicant must provide 16 of the 164 units to be made available to households earning 0.00%-50.00% AMI and 148 of 164 units will be made available to households earning at or below 51.00%-60.00% of AMI meeting CDBG-DR requirements for 51 percent of total units reserved for household earning at or below 80.00% AMI. Of the 164 affordable units, the Applicant must provide 26 HOME-assisted units consisting of 20 High HOME and 6 ~~six~~ Low HOME units as required by the HOME funding. All HOME-assisted and CDBG-assisted units will remain affordable for a minimum of 20 years. There will be no market rate units. The housing tax credit ~~HTC~~ affordable units may satisfy the HOME/CDBG affordability requirements and vice versa. The Director may authorize minor changes to the affordability unit mix so long as the revised unit mix adheres to federal regulations, the CHP, as restated in the Dallas Housing Resource Catalog, and the Project maintains a fundable Notice of Funding Availability score. Additionally, ~~Developer~~ Applicant and related entities must comply with Chapter 20A of the Dallas City Code, as amended, regarding voucher holder requirements. These affordable and voucher units must be dispersed throughout the residential floor area and shall be of comparable finish-out and materials as the market rate units.

**SECTION 3.** (continued)

HOME Funds will be disbursed to the Applicant on a reimbursable basis for vertical construction costs such as framing, roofing, carpentry, and other eligible costs, as allowed by federal regulations governing the use of the funds and the CHP, as restated in the Dallas Housing Resource Catalog. CDBG-DR funds will be provided to the DHFC or its affiliate to acquire and own the Project site and enter into a 99-year ground lease with the Applicant, as allowed by federal regulations including but not limited to 24 CFR 570.201(a) and (b), and the CHP, as restated in the Dallas Housing Resource Catalog.

The HOME and CDBG-DR loans are both repayable subject to the following terms:

1. The term of the loan agreement(s) shall be a minimum is of 40 years beginning from the effective date and accounting for the construction period;
2. The term of the loan(s) shall be 40 years and ends on the maturity date, unless extended in accordance with the terms of the loan agreements(s). The maturity date and the repayment schedule shall be defined/detailed in the loan agreement(s) and other financing documents for the loan(s), in accordance with the CHP, as restated in the Dallas Housing Resource Catalog;
3. Applicant shall complete construction of the 164 units within two 2 years of the effective date of the agreement, which may be extended by the Director of the Department of Housing & Neighborhood Revitalization (Director) up to two years (unless prohibited by the applicable regulations or the CHP, as restated in the Dallas Housing Resource Catalog);
4. The unit mix will include 99 1one-bedroom apartments and 65 2two-bedroom apartments. The requirements of this subsection may be modified by the Director;
5. Loan amortization is 40 years, with an interest rate of one percent simple annual interest;
6. Applicant and DHFC must execute a promissory note(s) for the total loan amount(s);
7. The DHFC, or its affiliate(s), as owner of the property, and Applicant or its affiliate(s) as ground lessee of the property shall execute and record deed restrictions on the property. The deed restrictions may be subordinate to deed restriction issued by TDHCA, U.S. Department of Housing and Urban Development (HUD) and/or to other financing (without waiving compliance with such deed restrictions), and shall be recorded to secure the minimum 20-year affordability period for the affordable HOME/CDBG units, and the 15-year

**SECTION 3.** (continued)

voucher period for the requirement to make best efforts to lease up to 10 percent of the unit to holders of vouchers pursuant to Chapter 20A of the Dallas City Code, as amended, and the CHP, as restated in the Dallas Housing Resource Catalog;

8. The DHFC, or its affiliate(s), as owner of the property and Applicant or its affiliate(s) as ground lessee, shall execute and record a deed of trust on the property, including the leasehold and all improvements to secure payment and performance which will be released once all terms and conditions of the HOME and CDBG-DR loan agreement(s) are met.
9. The City's lien for the loan agreement may be subordinate to financial institution lien(s) and TDHCA lien(s), subject to the requirements of the CHP, as restated in the Dallas Housing Resource Catalog. In the event subordination agreements are required, the City agrees to provide the subordination agreement in a form acceptable to the City;
10. Applicant shall cause to be provided guarantees including a completion and operating deficit guaranty for the loan agreements;
11. Applicant must cause to be provided payment and performance bonds or guarantees, or acceptable equivalent methods of guarantees to the City in the total amount of the construction of the development;
12. Repayment of loan principal and interest shall be an annual surplus cash payment. The City's surplus cash loan funding will be structured with note provisions requiring that at least 50 percent of Eligible Cash, as defined in the CHP, as restated in the Dallas Housing Resource Catalog, in excess of \$50,000.00 be paid annually to subordinate lenders (including funding partners and related parties) on a prorated basis;
13. A default under the HOME loan agreement shall constitute a default under the CDBG-DR loan agreement, and vice versa;
14. The HOME/CDBG-DR loans shall be a nonrecourse and the City's remedies is limited to foreclosure only in the event of an uncured default;
15. Although the term, the maturity date, and the amortization are anticipated to be for a period of 40 years, the Director may adjust the period of years, subject to the CHP, as restated in the Dallas Housing Resource Catalog, so that it is such length as to account for the construction period, as may be extended in accordance with the loan agreement, the affordability period(s), the

**SECTION 3.** (continued)

requirements of the funding sources, and other lenders ~~by senior lender but not longer than 12 months after the term of the senior loan;~~

16. DHFC shall purchase and own the land, enter into a long-term ground lease with Applicant and take an ownership interest in the Property;

17. The HOME/CDBG-DR loan agreements are conditioned upon:

- a. Project receiving 2023 4% Non-Competitive ~~HTC~~ housing tax credit allocation from TDHCA or similar City-approved funding source allocation from TDHCA;
- b. Approval of equity, construction, and permanent financing documentation in a form acceptable to the City;
- c. Project compliance with CDBG-DR, HOME, HUD federal requirements including environmental review, site and neighborhood standards, cost reasonableness, subsidy layering, and underwriting;
- d. Applicant ~~shall~~ make a good faith effort to comply with the City's Business Inclusion and Development goal of 32% participation by certified Minority/Women-owned Business Enterprises for all hard construction expenditures of the Development (i.e., public, and private improvements) and meet all reporting requirements of the City of Dallas Small Business Center Department;
- e. All conditions listed in the CHP, as restated in the Dallas Housing Resource Catalog for developer programs;
- f. Final underwriting; and
- g. Compliance with all City conditions precedent, including commitments and/or closing, as applicable for ~~Closing on equity and~~ all other financing for the development.

**SECTION 4.** That the DHFC is authorized to purchase and own the property, enter into a long-term ground lease with Applicant or an affiliate thereof, and take an ownership interest in development, conditioned on Applicant or an affiliate thereof receiving a 2023 4% HTC award or similar City-approved financing source.

**SECTION 5.** That the Chief Financial Officer is hereby authorized to encumber funds and disburse funds in an amount not to exceed \$4,618,487.00 in HOME funds to TX Ferguson 2022, Ltd., (Vendor VC24264) or its affiliate, and an amount not to exceed \$3,965,000.00 in CDBG-DR Funds to the DHFC Vendor 255006, or its affiliate for eligible expenditures and accepts supporting evidence as defined in the agreements from funding sources listed and described, as follows:

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**SECTION 5.** (continued)

2022 Community Development Block Grant – Disaster Recovery (CDBG-DR) Funds  
Fund CCD1, Department HOU, Unit 946G  
Object 3015, Vendor VC255006  
Encumbrance/Contract No. HOU-2023-00021662 \$3,965,000.00

FY17-18 HOME Investment Partnerships Program (HOME) Funds  
Fund HM17, Department HOU, Unit 275B  
Object 3015, Vendor VC24264  
Encumbrance/Contract No. HOU-2023-00021663 \$ 583,861.00

FY22-23 HOME Investment Partnerships Program (HOME) Funds  
Fund HM22, Department HOU, Unit 622G  
Object 3015, Vendor VC24264  
Encumbrance/Contract No. HOU-2023-00021663 \$4,034,626.00

Total amount not to exceed \$8,583,487.00

**SECTION 6.** That it is FURTHER RESOLVED that the City of Dallas hereby confirms that its Governing Body has voted specifically to authorize the Development to move forward.

**SECTION 7.** That the Chief Financial Officer is hereby authorized to record notes receivable - developers loan in Balance Sheet Account 033F and deferred revenue loan in Balance Sheet Account 050A for the CDBG-DR Funds and notes receivable – developers loan in Balance Sheet Account 033F and deferred revenue in Balance Sheet Account 0859 for the HOME Fund for the amount of the loan in Section 5.

**SECTION 8.** That the City Controller is hereby authorized upon receipt of payment on the notes receivable to record principal payment revenue in HOME Program Income, Fund HMPI, Department HOU, Unit 6317, Revenue Code 8520 and interest payment revenue in HOME Program Income, Fund HMPI, Department HOU, Unit 6317, Revenue Code 8521.

**SECTION 9.** That the City Controller is hereby authorized upon receipt of payment on the notes receivable to record principal payment revenue in CDBG-DR Program Income, Fund HUPI, Department HOU, Unit 994G, Revenue Code 8520 and interest payment revenue in CDBG Program Income, Fund HUPI, Department HOU, Unit 994G, Revenue Code 8521.

**SECTION 10.** That this resolution does not constitute a binding agreement upon the City or subject the City to any liability or obligation until such time as the loan and conditional grant documents are duly approved by all parties and executed.



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**SECTION 11.** That this resolution shall take effect immediately from and after its passage in accordance with the provision of the Charter of the City of Dallas, and it is accordingly so resolved.